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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,919	12/02/2003	Frederick Enns		3149

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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

EXAMINER

PATEL, AJIT

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/725,919	Applicant(s) ENNS ET AL.	
	Examiner AJIT G. PATEL	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-29 and 105-117 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14,17-26,105 and 108-117 is/are rejected.
- 7) ☒ Claim(s) 15,16,27-29,106 and 107 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14,25, and 105 rejected under 35 U.S.C. 103(a) as being unpatentable over Sistanizadeh et al (5,790,548).

For claims 14,25 and 105, Sistanizadeh et al disclose an universal access multimedia data network comprising a controller for transferring information to the remote processor devices and for receiving information from the remote processor devices, and a configuration manager utilizing the controller to assign (see col. 4 lines 5-20) and, by obtaining feedback from the remote processor devices, to confirm assignment of an IP address to a remote processor device based on a detected identification of the remote processor device when connected to and operating on the system (see col. 10 lines 1-6). Sistanizadeh et al fails to disclose two controllers (upstream and down stream controllers) instead of one which is used for transmitting and receiving information. However, using one controller to transmit and receive information instead of two controllers would have been obvious to one skilled in the art since the controller performs the same functions as two controllers as claimed.

3. Claims 17-24,26,108-117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sistanizadeh et al as applied to claims 14,25,105 above, and further in view of Kwok et al (2003/0108048).

For claims 17-24,26,108-117, Sistanizadeh et al disclose the subject matter of the claimed invention with the exception of receiving operating software automatically downloaded from the network and assigning the class of service level for a device in a communications network. Kwok from the same or similar field of endeavor teaches a provision of operating software automatically download from the network and assigning the class of service level for a device (see para. 0045). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use operating software automatically download from the network and assigning the class of service level for a device as taught by Kwok in the communications network of Sistanizadeh et al.

The operating software automatically downloaded from the network and assigning the class of service level for a device can be implemented/modified into the network of Sistanizadeh et al. Since it does teach updating the database. The motivation for using operating software automatically download from the network and assigning the class of service level for a device as taught by Kwok into the communications network of Sistanizadeh et al. being that it provides much higher utilizations while maintaining the guaranteed QoS.

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4. Claims 15,16,27-29,106,107 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed 11/15/2006 have been fully considered but they are not persuasive. The applicant argued that the controllers recited in claims are independently operating. However, it would have been obvious to one skilled in the art to use two independently operating upstream and downstream controllers instead of one controller since the controller performs the same functions as two controllers as claimed. Furthermore, applicant argued that the configuration manager recited in claim is not the same as server of Sinstanizadeh. However, the server of Sinstanizadeh does assign and confirm the IP address as recited in lines (see col. 4 lines 5-20; see col. 10 lines 1-6). Therefore, the applicant's argument is not persuasive because of the above reason.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT G. PATEL whose telephone number is 571-272-3140. The examiner can normally be reached on MONDAY-SATURDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AP


Ajit Patel
Primary Examiner